

**Testimony of Neal P. McCluskey
Before the
Commission on No Child Left Behind**

Cambridge, Massachusetts
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Thank you Chairmen Barnes and Thompson for the opportunity to appear before this Commission and discuss state standards under the No Child Left Behind Act, as well as ways to reform education in order to maximize American competitiveness in the global economy.

My name is Neal McCluskey and I am an education policy analyst at the Cato Institute, a public policy research foundation located in Washington, D.C. Prior to joining Cato, I was an analyst at the Center for Education Reform, and before that taught high school English and covered education, among other topics, for a regional newspaper in suburban New Jersey.

I am especially grateful to the committee for giving me an opportunity to air a viewpoint that is not often heard in either discussions about federal education policy, or debates about educational “standards” and “accountability”: That no government control of schooling can provide Americans the education they truly need or deserve.

Recent history makes the truth of this conclusion abundantly clear.

As is well known, one of the primary drivers behind the No Child Left Behind Act was the acknowledgement that for decades states and many local school districts proved themselves incapable of providing acceptable elementary and secondary education to their citizens. NCLB, by requiring states to set reading, math, and science standards, and by tying receipt of federal funds to students successfully mastering those standards, was intended to force states and local education agencies to shape up.

But a funny thing happened on the way to universal proficiency. Instead of setting high standards and lifting all children to meet them, many states and districts concentrated on evading and gaming the NCLB system. As the Thomas B. Fordham Foundation, Education Sector, the Associated Press, and several other organizations have amply documented, states have found countless ways to avoid sanctions under NCLB: Many have set very low bars for “proficiency.” Others have used statistical gimmickry to all but guarantee that their schools and districts will make AYP. And then there are the nearly 2 million students who have simply disappeared from NCLB accountability because many states have deemed the subgroups to which they belong too small to count.

Of course, state and LEA evasion of the law has not been restricted to measures of proficiency and AYP. States and districts have also routinely

skirted the spirit, if not the letter, of NCLB in their stonewalling of school choice, incomplete placement of “highly qualified teachers” in school classrooms, gross under-identification of “persistently dangerous” schools, and so on.

Many people, reasonably, blame the pervasive state and local “aversion” of NCLB on the fact that the law allows states to write their own standards and tests, to set many of their own statistical rules, and to identify their own paths for having all of their students reach reading and math proficiency by 2014. To many NCLB critics, states and LEAs have proven once again that they cannot be trusted, and therefore the critics are calling on the federal government to set the standards, make the tests, and establish the paths to proficiency.

But there’s a problem: When it comes to education, time and again the federal government has proven itself just as untrustworthy as LEAs and the states. Indeed, deception by federal education authorities has been documented going all the way back to 1965, the beginning of large-scale federal involvement in the nation’s schools. As RAND Corporation researcher Milbrey McLaughlin reported in 1975, in the first ten years after passage of the Elementary and Secondary Education Act, the federal government regularly conducted poor-quality assessments of Title I,

nonetheless consistently found that Title I was a poor performer, then regularly either buried the bad reports or spun them as positively as possible.

Thirty years after McLaughlin issued her report, the tendency of federal officials to put the most positive spin possible on student achievement reports, and to claim credit where it cannot plausibly be given, is just as strong. Case in point, Washington's reaction in July 2005 to results from the National Assessment of Educational Progress's *Trends in Academic Progress*, which showed increases in reading scores for 9-year-olds and in math for 9- and 13-year-olds.

"No Child Left Behind is making a difference in the elementary and middle schools," President Bush declared on the day the scores came out, "and I believe we need to expand this process to our high schools."

Clearly, the scores weren't bad news. But did NCLB really deserve credit for them? Hardly. For one thing, the NAEP tests were administered in 2004, only two years after NCLB's enactment, and almost two years *before* the law was scheduled to be in full effect. Moreover, even if NCLB had been working for many years, it would have been impossible to identify the law as the cause of success because numerous other education reforms were in effect at the same time. But, of course, accurate analyses aren't nearly as important in politics as public perceptions.

When the 2005 “regular” NAEP reading and math results were released a few months after the *Trends* report, the spin cycle repeated. “Today’s results clearly demonstrate that significant progress in student achievement is being made and that No Child Left Behind is working,” said then-House Education & the Workforce Committee Chairman John Boehner (R-OH). This despite the fact that while math scores were up, reading scores between 2002 and 2005 were stagnant in grade 4 and down in grade 8. And, again, no one could possibly isolate the role that NCLB had in either the score increases or decreases.

So why can no level of government – local, state, or federal – be trusted to talk straight about the success or failure of government education initiatives, or public education in general? Because, ultimately, most policymakers face the same incentives: They want to get reelected, and to do that they must show what a good job they are doing. That causes them to brush off or ignore negative findings about education initiatives they have supported, and to embellish positive results.

But if their schools are bad, won’t voters hold policymakers accountable for it come election day? Unfortunately, the answer to that is usually no. The problem is that voters typically have to consider many, many more issues than just education when casting ballots for candidates.

Even if their public schools are awful, voters also have to worry about the economy, taxation, transportation, health care policy, national defense, embryonic stem cell research, Social Security, bridges to nowhere, and the list goes on. Short of an educational crisis – and here only *Sputnik* and *A Nation At Risk* come to mind – rarely is education a deciding issue for voters. That reality, coupled with policymakers’ ever-vigilant efforts to keep education news as rosy as possible, keeps the status quo largely impervious to change.

And the built-in protections of the status quo do not end there, because at the same time voters have to split their attention among countless priorities, the people who earn their livings in public education have huge incentives to focus their energies completely on defending the status quo. It’s a classic example of diffuse costs and concentrated benefits: While people with vested interests in “the system” have very powerful incentives to defend their turf – and policymakers have strong incentives to listen to them, lest they become the targets of negative political attacks – parents and voters have numerous priorities beyond education that fragment their attention.

Milbrey McLaughlin summarized this problem perfectly in 1975: “The teachers, administrators, and others whose salaries are paid by Title I, or whose budgets are balanced by its funds, are....a more powerful

constituency than those poor parents who are disillusioned by its unfulfilled promise.”

Understanding how this fundamental dynamic works, it is clear that in the long-run no matter what reforms are attempted at the federal level, those people who supply public education will inevitably hold the political upper-hand, and will succeed in maintaining minimum standards and accountability. This alone is sufficient reason to scrap NCLB, and especially to avoid increasing federal control of elementary and secondary education. It is, however, far from the only reason.

Consider, for instance, what we have learned from years of watching curriculum wars engulf states and districts across the country. Americans are clearly divided on countless educational issues – creationism and evolution, phonics and whole language, “traditional” and critical American history – and are constantly forced into bitter political battles to control both what their public schools teach, and how they teach it. Efforts to create unified federal standards will only make this Balkanization worse, forcing every American into every curricular fight we’ve seen.

And the downside to such fighting will not only be the social and political division it will create. In the end, battles over federal standards will almost certainly be resolved by creating “lowest common denominator”

standards that offend no one, but that also stand for almost nothing. In the name of “standards” and “accountability,” we will get the lowest standards possible.

But suppose political compromise was somehow circumvented, and one group was able to impose through the federal government what it considered to be strong, coherent standards. For instance, imagine that all students were required to learn reading through phonics, to be taught only Darwinian evolution, to divide decimals without a calculator, and to explain the contributions to American history of great men such as George Washington and Abraham Lincoln. Would federal control then be an acceptable option?

Even for those pedagogical “traditionalists” who would likely support such standards, the answer should be a resounding “no.” Why? Because there is no reason to believe that traditionalists will always control the federal government, and when they don’t – when the calculator lovers and whole language enthusiasts are in charge – neither they nor parents will have anywhere to run. They will have cut off all avenues of escape from the pedagogical ideas they despise.

Indeed, while it is traditionalists who are currently the biggest supporters of federal standards, they should actually be the most worried

about giving standard-setting power to Washington. After all, traditionalists have for decades decried progressives' near monopoly hold on America's schools, and were horrified when progressive ideas dominated proposed national history, reading, and math standards in the mid-1990s. It has also generally been traditionalists who have recognized that only decentralized control of education enabled parents in the past to escape progressive pedagogical tidal waves that swept over public schooling.

There is, finally, one more reason that NCLB – and, in fact, all federal educational involvement – should end: the Constitution. While these days far too many people treat the Constitution as little more than a quaint historical artifact, like quilting bees or barn-raising – it seems so nice, but it just doesn't belong in modern America – the Constitution is still the supreme law of the land, and it still gives the federal government no authority to interfere in education. And the founders did not simply forget to include authority over education among the federal government's enumerated powers, as some commentators have asserted. They knew, as with most things, that local communities, and the people themselves, are infinitely better equipped to provide and procure the education they need than congressmen, presidents, and bureaucrats in a far-off capital. Indeed, it has been just such freedom that has enabled Americans to innovate, strive, and succeed in

almost all areas – with the notable exception of elementary and secondary education – and that has made the United States the preeminent economic power in the world. Isn't it ironic, then, that so many people think that to remain economically preeminent, we must have less freedom in our already hidebound education system?

The lesson that should be learned from both our educational and economic history is that more centralized control of education is the last thing we need. Indeed, what history has unmistakably shown is that the only way to make American education great is to completely flip the current ruling dynamic. Rather than having government in charge of schooling, parents must be able to choose their children's schools based on whatever criteria they think best, schools must have the freedom to specialize and innovate, and government "experts" must be kept out of the way. "Public education" must mean that the public ensures that all students can access education, and little else. Only then will American education truly work to make students – not policymakers and vested interests – as happy and prosperous as possible in the 21st century.

Thank you again for this opportunity to speak, and I look forward to answering your questions.